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Indiana State Board of Accounts

Procedure necessary to follow for a legal county...

Ft. Wayne, Ind.

1917

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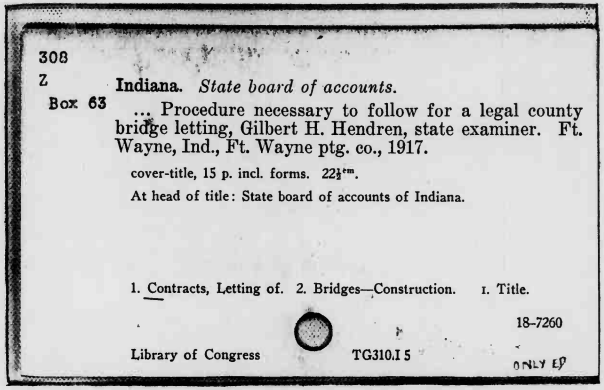

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Procedure Necessary to Follow for a Legal County Bridge Letting

GILBERT H. HENDREN
State Examiner
1917

FT. WAYNE PTG. CO. FT. WAYNE, IND.

Officers

The State Board of Accounts

James P. Goodrich ..... Governor.
Otto L. Klauss ..... Auditor of State.
Gilbert H. Hendren ..... State Examiner.
George M. Crane ..... Secretary of the Board.

Department of Inspection and Supervision of Public Offices

Gilbert H. Hendren ..... State Examiner.
Lawrence F. Orr ..... Deputy Examiner.
Walter G. Owens ..... Deputy Examiner.
George M. Crane ..... Clerk of Department.

PROCEDURE NECESSARY TO FOLLOW FOR A LEGAL COUNTY BRIDGE LETTING.

There must first be a survey, profile and general plan deposited by the board of county commissioners in the office of the county auditor and kept open to public inspection. "All contracts attempted to be made in violation of this section shall be null and void." (Acts 1907, p. 180; Burns' R. S., 1914, section 5893). These drawings must be "full and complete" and accompanied by "complete and detailed specifications," and this must be done for any "construction or re-construction or material alteration." The work contemplated may then be advertised for bids. (Acts 1899, p. 343; Burns' R. S., 1914, section 5954). "The statute requires specifications as well as plans and bids upon plans furnished by the board and specifications furnished by the bidder are not made in compliance with the law in that regard, and the letting of a contract under such facts may be enjoined at the suit of a taxpayer." Board vs. Pashong, 41 Ind. App. 69. However, bidders may submit their own plans and specifications for competition at the same letting by filing same with the county auditor not less than ten days before the date of letting. All other competitors are privileged to bid upon such submitted plans, and if the same include the use of any patented device or one controlled by monoply of any such competitor, the party submitting such plans must also file a statement of the terms upon which others may use such device. (Acts 1907, p. 580; Burns' R. S., 1914, section 5894). The foregoing does not apply to cases where the entire cost does not exceed $100.00.

The Act of 1913, being section 5896a, requires that all bids that may be offered at any time prior to the time fixed for opening the bids, shall be received. All bids

must be opened publicly at a meeting which is open to the public, as well as to all bidders. All contracts let in violation of this act are void. Section 5896b.

The board, after placing of record a declaration of necessity for the construction, re-construction or repair of a bridge, bridge supports, approaches thereto, etc., naming the location very exactly and stating in general terms the complete scope of the work, should then instruct the county surveyor, if competent, or a competent engineer or other person competent to make surveys, plans and profiles, to make the necessary survey, and from the same, design and present for approval the profile, "general plan," and specifications for the contemplated work, and enter the appointment of record. Such engineer should not only be known to be a competent person for such purpose, but he must not be connected with any person, firm or corporation likely to become a bidder for such work, nor may he be directly or indirectly interested in the proposed contract. All plans and specifications so made by such engineer should then be formally presented by him to the board for approval by them, and proper entry made of their action thereon. After being so approved, or altered where necessary to obtain such approval, they should be endorsed as having been adopted by the board as the official plans and specifications of the county, and filed with the auditor as aforesaid. The case is then ready for an order to advertise for bids in the manner prescribed by law.

The board may, in its discretion, instruct its engineer to prepare complete plans, in detail, showing all the respective members of a bridge as to their specific shapes, sizes and connections; or, in case of reinforced concrete work, the number, sizes and placing of the reinforcing bars, as well as the height, width and thickness of abutments, etc., and the contour and thickness of arches. This does not deprive competitors of the privilege of filing their own designs as provided in section 5894, provided they comply as to all *general* features with the

official plans of the county. But in every case plans and specification must be in sufficient detail, even when general in their nature, to insure that nothing might be left to uncertainty and speculations in making bids, or the chance afforded for favoritism in letting contracts.

All such plans and specifications, as also those submitted by others, must be filed in duplicate and certified by the engineer or other party, as the case may require, to be indentical. One of such duplicate sets must be sealed up by the auditor, labeled and deposited in a safe place, a vault if possible. The sealed papers must so remain until the time comes to pass upon the acceptance of the work, when the seals may be broken and the papers used in checking up the work for acceptance. (Acts 1907, p. 580; Burns' R. S., 1914, section 5895). Then such duplicate set of plans and specifications shall be retained by the auditor in a safe place for inspection and to check with the contracts and records in all such contracts by the field examiners of the State Board of Accounts.

The profile required by the statute should show all the existing physical conditions at the site of the proposed bridge; the cross section of the stream or other opening to be spanned; all necessary soundings of both water and foundation ground and the character of the latter; the depth to underlying rock, if any; the levels of lowest and highest water from the most reliable information obtainable; the location desired of the abutments, and, if any, the piers; a diagram of the truss or arch spans in a general way; a diagram of any present structure that may require taking down; a diagram of the sizes, depths and other dimensions of abutments, wings and piers, and all other information necessary to place all competitors on the same basis, such as will occur to any competent engineer. The filed specifications should describe the quality and required strength of all piling, stonework, concrete work, steel material and workmanship, woodwork, paving, excavation and back-filling, etc., the live loads to be pro-

vided for, and the permissable stresses on all classes of material, all in sufficient detail to insure intelligent and fair competitive bidding, and also to insure the designing of all submitted competitive plans and their detailed specifications on the same basis as to general requirements.

A contract for a public undertaking can only be let on the day specified in the advertisement, and if for any reason it be not let on such day, another advertisement must be made before the contract can be let. Board vs. Templeton, 51 Ind. 266. For this reason the board should be fully advised in advance concerning the sufficiency and adequacy of all alternative designs submitted, which should be checked by their professional adviser in ample time for him to make an intelligent report as to the same before the day set for the letting.

A contract cannot be let for a sum greater than that specified for the purpose in the appropriation ordinance of the county council. (Acts 1899, p. 343; Burns' R. S., 1914, section 5942). So that if, at the time of any letting, all the bids be above that limit, requiring a deficiency appropriation to be made in special session by the county council, it is not lawful to hold the bids until such deficiency can be made up, but the work must be readvertised, or the contract will be void. (Section 5942, State vs. Board, 165 Ind. 262). The board may, however, begin over again by ordering such changes in the plans as will bring the cost within the original appropriation, and award the contract at a subsequent letting, provided the appropriation has not lapsed in the meantime.

No bid for the building of a bridge should be received or considered by the board unless it is accompanied by a bond as required by section 5, Acts 1907, p. 580. (Burns' R. S., 1914, section 5897; Board vs. Norrington, 82 Ind. 190).

Section 6 of this act, (Burns' R. S., 1914, section 5898) authorizes the board to appoint an inspector of any work of construction or repair, but does not oblige them to do so. It will, however, usually be wise to do so,

especially as regards construction in concrete or stone masonry. Concrete is a product manufactured *in situ* out of diverse materials brought together there and mixed for casting into molds, after which no inspection ever can determine whether such mixture was properly made or in the required proportions; nor can the interior of stone masonry be inspected after the stones are laid up, nor piling after being driven. Every care should be taken to insure that the taxpayers are not swindled. If such inspector be appointed, it is thereafter unlawful to allow or order paid any final or partial estimate on account of such work, unless such estimate shall be first certified to as correct by the inspector. (Section 5898). The board may accept, reject or defer action on such estimate in their discretion.

Any county commissioners who fail to comply with the statute as to letting bridge (and other public improvement) contracts may be fined not less than $500 nor more than $1,000, to which may be added imprisonment for not over six months. (Acts 1907, p. 580; Burns' R. S. 1914, section 5901). And any amount paid out on account of a void contract may be recovered by any taxpayer on suit from the contractor after failure of the board to initiate such a suit themselves for thirty days.

In bridge lettings it will often be judicious to take separate bids for super and sub-structure, to be so called for, of course, in the advertisement, since the sub-structure may often be awarded at a prime price to a local contractor who otherwise might have to become a subcontractor of a general bidder. This plan also affords the county's engineer a better check as against juggled bids.

Surveyors or engineers act in an advisory capacity, and county commissioners whose duty it is to contract for and have a bridge constructed cannot delegate the power vested in their office by law to an engineer. County commissioners are acting for the taxpayers of a prescribed district which they have respectively been chosen

to represent, and they have no authority except that which is vested in their office by law.

After the letting of the contract there is neither excuse nor law for a change in the plans and specifications as originally adopted and upon which the contract is based.

Forms of notice to bidders, blank bridge contract, contractor's bond, blank bid and non-collusion affidavit are herewith enclosed.

This statement has been submitted to and approved by the Attorney-General.

Very truly yours,

G. H. HENDREN,

State Examiner.

The following affidavit, made by the engineer making the plans, should be attached to each copy of the plans and specifications.

State of Indiana, }
..... County, } ss:

The undersigned, being duly sworn, deposes and says that the attached plans and specifications are duplicates of plans and specifications marked "Exhibit....." and to be found on file with the Auditor of.....County, Indiana.

.....

Subscribed and sworn to be fore me this.....day of

.....191.....

.....

.....

NOTICE OF BRIDGE LETTING.

Notice is hereby given that the Board of County Commissioners of.....County, Indiana, will receive bids at the Auditor's office in.....County Indiana, until Twelve o'clock noon on the.....day of .....191..... for the erection of a bridge.....

.....

over.....

at.....

.....

Plans, Specifications and Profiles have been adopted by the board and are now on file in the office of the county auditor for the inspection of bidders.

.....

.....

.....

Board of County Commissioners.

Note. In appropriate cases substitute or add to the word "bridge" the word or words, abutments, piers, piling, retaining walls, approaches, as the case may require.

CONTRACTOR'S BID AND NON-COLLUSION AFFIDAVIT.

.....Ind.

.....191.....;

To the Board of County Commissioners of..... County, Ind.

Gentlemen:

The undersigned proposes to construct the Bridge known and designated as the.....Bridge in said county, including any and all material, labor and tools that may be necessary, and according to the plans, specifications and profiles on file in the office of the County Auditor of said county and heretofore adopted and approved by you and according to the laws of the State of Indiana for the sum of.....

.....

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AFFIDAVIT OF BIDDER.

STATE OF INDIANA.....COUNTY, SS;

The undersigned, being first duly sworn, says: That he has (or, they have) not directly or indirectly entered into any combination, collusion, undertaking or agreement with any bidder or bidders to maintain the price of any contract or work, or to prevent any bidder or bidders from bidding, or to induce any bidder or bidders to refrain from bidding on any contract or work, and that said bid as made herein is without reference or regard to any other bid or bids, and without agreement, understanding or combination, either directly or indirectly, with any other person or persons with reference to this letting in any way or manner whatever.

.....

Subscribed and sworn to this.....day of.....191....

.....

.....

BRIDGE CONTRACT.

This article of agreement, made and entered into this....., by and between the Board of Commissioners of the County of..... Indiana, as party of the first part, and..... .....of....., as party of the second part, witnesseth:

That, for and in consideration of the matters hereinafter mentioned, the party of the first part does hereby hire and employ party of the second part to furnish all material and labor necessary, and to fully construct, according to plans, specifications, profiles and drawings therefor, bridge No.....; over.....and between sections.....and.....in..... Township, in said county, and the first party hereby promises and agrees to pay second party therefor the sum of..... .....dollars.

In consideration of the premises, second party hereby promises and agrees to furnish all the materials and labor necessary and to fully construct said bridge, and to do the same in all things to fully conform to and comply with all of the plans, specifications, profiles and drawings therefor, heretofore approved by the first party and on file in the office of the Auditor of said county, and to have the same completed on or before....., and to so complete the same to the approval of the engineer, and to the acceptance and approval of the first party; and said second party shall promptly pay all debts for material and labor, and pay all sub-contractors and all legal claims against such sub-contractors, and present receipted bills to the first party therefor, or other satisfactory proof of payment, and do all things necessary to comply with Chapter 173 of the Acts of the General Assembly of the State of Indiana for the year 1911.

In consideration of the foregoing, it is further mutually agreed that the plans, profiles, specifications and drawings aforesaid, and the bid and bond of second party, are hereby made a part of this contract, the same as if herein fully set out; that the said contract price shall be paid to the second party upon estimates made by the engineer, not to exceed eighty per cent. of such estimates, less the legal claims filed against the same, and the balance to be paid when said improvement is fully completed, accepted and approved as aforesaid, and then at the first regular meeting of the Board more than thirty days after the last work and labor is performed and the last material furnished. Before such final payment is made, second party must furnish receipts for all debts incurred in the prosecution of such work, or satisfactory evidence and assurance to first party that the same have been or will be paid.

It is further understood and agreed, in consideration of the foregoing, that in the event said improvement is not fully completed and this contract not fully complied with on or before....., then and in that event the first party is hereby authorized to withhold

from the contract price aforesaid the sum of..... dollars per day for each day said work remains unfinished and incomplete thereafter, which sum shall be so withheld as liquidated damages, and which sum is hereby agreed upon as the amount of damage which may be sustained by said first party, and is so agreed upon on account of the uncertainty of the amount and extent of such damages and the difficulty of establishing the amount and extent thereof by legal evidence; provided, such damages shall not be enforced or retained on account of any delay that may be caused by strikes, the act of God, or any cause beyond the power or control of second party.

Witness our hands this.....

.....
.....
.....
} Commissioners.

.....Contractor.

CONTRACTOR'S BOND FOR BRIDGE CONSTRUCTION.

Know all men by these presents, that.....
as principal of.....and
.....
.....
as surety, are firmly bound unto the State of Indiana in the penal sum of ($.....) dollars, for payment of which, well and truly to be made, we bind ourselves jointly and severally and our joint and several heirs, executors, administrators, and assigns, firmly by these presents this.....day of.....191....

The conditions of the above obligation are such, that, whereas the Board of County Commissioners of..... County, Indiana, is receiving bids and will, if the above named principal be adjudged the lowest and best bidder, enter into a written contract with the said principal as named herein for the erection and construction of such bridge situated.....
.....
.....
in accordance with the plans and specifications as prepared by.....engineer, approved and adopted by said board of county commissioners which are made a part of this bond.

Now, therefore, if the said principal shall erect, construct and complete said bridge as described in said plans and specifications and changes therein in such manner and form and at or within such time as stated in said contract and in accordance with the terms of said contract and the specifications thereto annexed, and said plans, elevations, and sections in said specifications and changes therein, if any authorized, and shall pay all debts contracted by said principal in the prosecution of said work, including labor and material furnished, and for the boarding of laborers employed thereon, and also including the cost of labor and material furnished to sub-contractors and material men for use in the construction of said bridge, then this obligation shall be void, otherwise to remain in full force and effect.

.....Seal .....Seal

.....Seal .....Seal

State of Indiana, }
} SS:
County of..... }

Before me, the subscriber, a....., in and for said county, personally appeared.....
.....as principal and.....
.....
.....
as surety, and acknowledged the execution of the foregoing instrument for the purpose and use therein named.

Witness my hand and seal this.....day of.....191....

.....

.....

.....

END OF
TITLE